HARVARD

LAW REVIEW.

VOL. XXII. NOVEMBER, 1908. NO. 1.

THE NATIONALITY OF A JURISTIC PERSON.

THE history of a discussion in Private International Law seems commonly to have three periods. The first is the age of innocence, when it has not yet occurred to anybody that a difficulty exists. The second is the age of controversy, when the difficulty has made itself felt, and various solutions of it have been proposed and agitated. The third is the millennium, when all those solutions have been considered, and one has been accepted as satisfactory. This last stage is purely ideal: we may hope that there is a constant approximation towards it in all such controversies, but in none is it ever attained.

The object of this article is to discuss the various answers which have been proposed to the question, What is the essential difference between a foreign and a domestic juristic person? or, to state the question in a more practical manner, What test must be applied to distinguish between a foreign and a domestic juristic person? Amongst English lawyers this question is still in the first period of its history: the recorded decisions of English courts, in which a discussion of the question would have been relevant, either ignore it or apparently assume that everybody is agreed as to its answer. Amongst American lawyers the question may perhaps be said to be in the first period, verging on the second. Amongst lawyers on the continent of Europe it is in the second period, verging as closely as it is ever likely to verge, until it is considered at a Hague Conference, on the third; and it is therefore with the latter, the authorities of France, Italy, and Germany, that we have here most to do.

The inquiry with which we are concerned is commonly described by European lawyers as an inquiry into the nationality of juristic

persons. The use of the word "nationality," however, introduces some danger of confusion. In its ordinary meaning its content is not purely juridical; it is partly political also. To say that one has American nationality, for instance, is to imply the consequence that he has a number of vaguely defined political privileges and duties, such as his right to protection from, and his duty of allegiance to, the state. Whether a juristic person is capable of possessing nationality in this political sense may be open to controversy; but the controversy belongs to political science and public international law rather than to juridical science or private international law, and we are not concerned with it here. It should be understood that when use is made in this article of the word "nationality" in connection with the legal position of juristic persons, the political part of the content of the word is excluded, and it is used to imply only purely legal consequence, — that to the juristic person in question the rules of law of a certain state must be applied as its personal law. It is especially necessary to mark the distinction, because this is precisely the sense in which the word "nationality" is not used by common lawyers. For lawyers on the continent of Europe nationality is the test of personal law; for us that test is domicile, and the word "nationality," deprived of its principal juridical meaning, is used generally by us to express only those political consequences to which reference has been made.

The utmost divergence of opinion has existed about this matter, — a divergence, however, which gives signs of changing into a concurrence in favor of a particular theory to which reference will be made. A convenient method of dealing with the subject will be to consider one by one the various solutions of the problem which have been suggested by various authorities. There is much ground to cover, and in order to do so within the limits of an article, it may be necessary at times to proceed by steps of inelegant length.

I. *A juristic person is domestic in the state in which its members, or a majority of them (or the owners of the greater part of its capital), are domestic.*

This theory is apparently the first which occurs to practical men, and it has met with some support from lawyers also.[1] It is the natural outcome of a certain other theory, as to the nature of

[1] Vareilles Sommières, Droit International Privé, Vol. II. p. 78; also, Les Personnes Morales, p. 645.

juristic personality, which has its supporters amongst American lawyers. According to this, juristic personality is but a "thin veil" thrown over natural persons, to "unify and condense" them,[1] and "the fact remains self-evident that a corporation is not in reality a person or a thing distinct from its constituent parts. The word 'corporation' is but a collective name for the corporators."[2] Others there are, we know, to whom this fact is far from self-evident.[3] But the issue between them need not, and could not, be discussed here. It is sufficient to say that the theory under discussion is subject to one fatal objection, that it would be impossible to make practical application of it. The individuals who constitute a juristic person, especially a joint stock commercial association, may belong to many different nations. They are, besides, a changing body. The nationality of the majority of them, or of the holders of the major part of the common capital, may and often actually does fluctuate rapidly. The adoption of the theory would, under such circumstances, result in complete uncertainty as to what the nationality of the juristic person at any particular moment might be.

Such are the practical objections to the theory. From the point of view of legal principle, it can appeal to those only who hold the opinion that "the rights and duties of an incorporated association are in reality the rights and duties of the persons who compose it."[4] Those who hold what we may call the more orthodox opinion, and regard a juristic person as an entity entirely distinct from its members, whether it be an imaginary fiction of law or a real phenomenon of nature, must reject the theory on general grounds. If the personality of a juristic person is a different thing from that of its members, or of any section of them, there is no apparent reason why it should share the characteristics of their personalities in the matter of nationality or in any other matter.

II. *A juristic person is domestic in the state by which it was created (or by which it was expressly authorized).*

This theory has met with considerable support, especially in the United States, where indeed it may be said to be the accepted doctrine. Since the decision in Bank of Augusta *v.* Earle,[5] American

---

[1] Vareilles Sommières, *supra.*

[2] Morawetz, Private Corporations, § 1; *cf.* also Taylor, Private Corporations, § 60.

[3] *Cf.* Maitland's Introduction to Gierke's Pol. Theories of the Middle Ages, xxiv.

[4] Morawetz, Private Corporations, § 1.

[5] 13 Pet. (U. S.) 619; and see 20 HARV. L. REV. 78.

lawyers have been committed to the theory that the personality of a corporation is a fictitious creation of the state, and exists only in contemplation of the law. The courts in determining the nationality of corporations have proceeded *a priori* from this principle, and appear never to have doubted but that the state in which a corporation is domestic is that which "created" it, and that the rules of law of that state constitute its personal law. Thus we find it said that "in the jurisdiction of the United States a corporation is regarded as in effect a citizen of the state which created it": [1] for the purposes of federal jurisdiction a corporation is regarded as if it were a citizen of the state which created it;[2] and again, in cases relating to the consolidation of two or more corporations by the legislatures of two or more states, it has been repeatedly said that the effect of the consolidation is to create two corporations, one of which is domestic, in each of the consolidating states, *because* it derives its powers from and is created by that state.[3] Apart from such express decisions, the theory is tacitly assumed in almost every case relating to foreign corporations.[4]

The theory is assumed, moreover, as one adequate to account for the nationality of any and every juristic person, and in this respect there is an important distinction between its American adherents and its adherents on the continent of Europe; for by the latter it is admitted that it can only be applied to those juristic persons which have received some express authorization from the state. Nothing is easier, it is said by them, than to determine the nationality of juristic persons which have received such an express authorization, for the state in authorizing them imparts to them its own nationality.[5] But it is otherwise, they admit, with regard to

[1] St. Louis *v.* The Ferry Co., 11 Wall. (U. S.) 429; and see Louisville Ry. Co. *v.* Letson, 2 How. (U. S.) 558.

[2] Railroad Co. *v.* Harris, 12 Wall. (U. S.) 65. See also Ohio & Mississippi R. R. Co. *v.* Wheeler, Black (U. S.) 297. (*a*) Citizenship for the purposes of determining the jurisdiction of federal courts is not, of course, the same thing as nationality for the purposes of determining the personal law; but they are inseparably connected. (*b*) Owing to the early decisions that a corporation is not a citizen, it has been found necessary in these cases to invent the fiction of a conclusive legal presumption that the members of a corporation are citizens of that state alone in which the corporate body has its existence; but the substantial effect of the decision is as above. See Muller *v.* Dows, 94 U. S. 444.

[3] Muller *v.* Dows, 94 U. S. 444.

[4] *Cf.* Steamship Co. *v.* Tugman, 106 U. S. 118; North Noonday Mining Co. *v.* Orient Mining Co., 1 Fed. 522.

[5] *Cf.* Weiss, Vol. II, p. 392; Calvo, § 737; Fiore, § 418; Pineau, p. 122; Sacopoulo, p. 167; Haladjian, p. 67.

juristic persons which are formed without any express authorization; and that is a large and increasing class. It includes nearly all commercial associations, because they have in most countries been released from the necessity of obtaining official authorization, and can now establish themselves by a simple process of registration. For juristic persons of the latter class, it is said, some other test of nationality must be found. The state in which they came into existence has not authorized or recognized them; it has done nothing in connection with their institution; it has merely tacitly assented to their creation, and can in no sense be said to have created them itself, or to have performed any other act from which it is possible to construe an intention on its part to endow them with its nationality.

For these reasons most European jurists confine the theory under discussion to juristic persons which have received express authorization. The American theory would be rendered more defensible by adopting a similar reservation. But even in the restricted form it is open to much criticism. It appears to be based upon several distinct ideas. (*a*) In the first place, it may be contended that from an express authorization by the state must be implied an intention on the part of the state that its nationality should be imparted to the authorized juristic person, and that this intention is conclusive. But the intention of a single state can never be conclusive when we are searching for a fundamental principle of private international law. Such an intention may either be express or implied. In the first case, however strongly it may be expressed, if it transgresses against the rights of other states, it will be disregarded by their courts. An American court would, doubtless, hesitate to give effect to an act of the English Parliament which declared the municipality of Chicago an English corporation, and subject to the Municipal Corporations Act.[1] In the second case, if it is an implied intention, we must in addition seek some principle which will enable us to distinguish between those circumstances under which it must be implied and those under which it must not. In either case we are referred to

[1] It has been expressly decided by the Supreme Court of Kansas that the power of a state (Pennsylvania) to authorize corporations can only be exercised, so as to be valid in other states, within certain limits. "No rule of comity will allow one state to spawn corporations and send them forth into other states to be nurtured and do business there, when said first mentioned state will not allow them to do business within its own boundaries." Land Grant Ry. Co. *v.* Coffee County, 6 Kan. 245. *Cf.* also Von Bar, p. 228; Diena, p. 258.

some basis for our argument more fundamental than the matter of intention; and intention disappears from the scene as the final test of nationality.

It is not clear, moreover, why any such intention should be implied in an act of authorization. There are indeed many cases in which states have expressly authorized juristic persons in which it is impossible to imply it. Thus, according to the laws of certain countries, a *foreign* commercial association must obtain an express authorization before it can carry on business within that country's territories.[1] Authorization under such circumstances is clearly not intended to domesticate the foreign associations on which it is conferred. It does not affect their nationality: and it is difficult to see why an authorization which takes place at the formation of a juristic person should have any different effect from one which takes place at a later period in its history.[2]

(*b*) But the substantial basis of this theory seems to be different in nature from the preceding. As a matter of fact, since the institution of the system of registration for commercial associations, the necessity for an express authorization has been confined in general to juristic persons which are intended to discharge some function of a public nature, such as education, charity, or religion. Now, the control of such functions, it is said, falls within the acknowledged sphere of the state's activities, and they can be discharged by juristic persons by means only of a delegation of authority from the state. In performing them a juristic person acts as the arm of the state, and as a member of the state it must necessarily share the state's nationality, and be subject to the law of the state as its personal law.[3] It will be seen that according to this argument the nationality of a corporation is made to depend ultimately upon the nature of its functions, and only incidentally upon the authorization which accompanied its formation. There is no necessary connection between an intention to exercise public functions and the receipt of an authorization. Some states, for instance, are willing to permit the foundation of associations, for the purpose of discharging public functions, by mere registration.[4]

---

[1] Russia, Imp. Decree of November 9, 1887; Turkey, Edict of November 25, 1887; Austria, Ordinance of November 29, 1865; Roumania, Commercial Code, § 244.

[2] See Arminjon, p. 387.

[3] Brocher, § 26; Fiore, § 305.

[4] "Any seven or more persons associated *for any lawful purpose* may . . . form an incorporated company." English Companies Act, 1862, § 6.

In such cases this argument in favor of express authorization as the test of nationality must be converted into an argument in favor of the nature of the juristic person's functions as such test. Such is its true nature in every case; and the theory would be more accurately expressed by saying that a juristic person which discharges public functions is domestic in the state in which those functions are discharged. In this form the theory cannot be satisfactorily examined until some consideration has been given to the subject of the domicile of a juristic person; and it will be referred to again in that connection. However, one inherent defect in it may be pointed out here. In making the nationality and the personal law of a juristic person depend upon the functions which it performs, it makes them depend on its political circumstances, and not upon its legal character or conditions. The nature of the authorization which it has received from the state, the part which it plays in the organization of the state, and the extent to which it has received a delegation of the state's authority, — these, as regards its legal life, are accidental and unimportant circumstances. They have little or no relation to, or effect upon, either the nature of its legal constitution or the extent of its legal capacities. Nationality in the present sense, as the factor which determines by what rules of law its legal constitution and capacities must be governed, is a juridical and not a political quality, and should therefore be determined by the legal and not by the political characteristics of the juristic person.

III. *A juristic person is domestic in the state in which the acts (or some one of them) by which it came into existence were performed.*

This is a theory which recommends itself at first sight, but it has nevertheless, on full consideration, been generally rejected. According to it, every *fondation* would be domestic in the state in which it was founded, every corporation in the state in which it was incorporated, and every commercial association in the state in which it was formed and registered. The simplicity of the proposition has recommended it to business men; and it was adopted by the Congress of Joint Stock Companies held in Paris in 1889.[1] But there are serious objections to it, both from the practical and from the theoretical point of view. It makes the nationality of a juristic person depend entirely upon the arbitrary will of its

[1] Clunet, 1890, p. 179. (The similar congress that met in Paris in 1900 took, however, as will be seen, a different view.) *Cf.* also Code adopted by International Law Association at their Berlin conference in 1906.

founders: they can give to it any nationality they please, regardless of its circumstances, by performing the acts which bring it into existence within the jurisdiction of the appropriate state and according to the formalities of its laws; and no subsequent event can afterwards deprive it of that nationality, or endow it with another, either in the eyes of its native state or in those of any other. Such a state of affairs would clearly put great temptation in the way of intending founders to flock to the state whose regulations for the establishment of juristic persons were the easiest and the cheapest, although the juristic persons they intended to found had no substantial connection with that state or with its subjects or territories. It would in consequence become impossible for any state to maintain regulations for the establishment of juristic persons more onerous than those of the state whose regulations were the most lenient; and small states, in order to secure the custom of founders, would be tempted to enter into a competition in leniency. This consideration alone has led to a very general consensus of opinion against the theory,[1] or any other theory that makes the nationality of a juristic person depend upon the arbitrary will of its founders or members rather than upon its legal character and circumstances.[2]

But there is a further objection to it in that it is not impossible that, of the various acts by which a juristic person is brought into existence, some may be performed in one state and some in another. The process of organizing a commercial association, for instance, includes several acts in the law. There is a contract between the future members, a subscription of capital, and the performance of whatever public formalities, such as registration, may be demanded by the law. Each of these might be made in a different country; and the theory would not then tell us in which of those countries the association was domestic.

In order to overcome the difficulty opinions have been expressed in favor of each of the three parts of the process of formation as the test of nationality and the personal law.

---

[1] See Weiss, Vol. II. p. 415; Lyon-Caen et Renault, Vol. II. p. 823; Surville et Arthuys, § 456; Pic, Clunet, 1892, p. 585; Thaller, Annales de Dr. Comm., 1890, Vol. II. p. 259; Fiore, § 417; Diena, p. 260; Mamelok, p. 218; also Trib. Seine, 11 Mars, 1880; Trib. Gand, October 20, 1883; Pasicrasie Belge, 1884, II. 64; Cor. Cass, Roma in Clunet, 1889, p. 511, and 1890, p. 162; and Belgian Law of May 18, 1873, § 129.

[2] See Weiss, Vol. II. p. 418; Lyon-Caen et Renault, Vol. II. p. 822; Vavasseur, p. 345; Lyon-Caen, Journal des Sociétés, 1880, p. 36.

(*a*) A commercial association or other juristic person whose constitution is based on a contract between its members is domestic in the country in which the contract of association was made.

It must be implied, it is said, that the parties to the contract intended that their contract and its incidents should be governed by the *lex loci contractus:* and this intention, as an implied term of the contract of association by which the constitution and capacities of the juristic persons are regulated, is conclusive that that law must be applied to questions concerning its constitution and capacities, — that it is, in other words, its personal law.[1] But if, as we have seen, the intention of a state cannot be considered as conclusive of the nationality of a juristic person when it is expressed without regard to the circumstances of the juristic person and the rights of other states, still less can the intentions of private persons be so considered. Such an intention on the part of the founders, if it could be legitimately implied, might no doubt be binding on themselves as parties to the contract of association; it could not bind third parties, strangers to that contract, and still less could it bind states which considered that the intended attribution of nationality inflicted an injury upon their own rights or upon those of their subjects. There does not, however, appear to be any good reason why any such intention on the part of the founders should be implied. It seems equally reasonable to suppose that they intended that the personal law of the juristic person should be their own personal law, or that of the majority of them, with which, when the contract of association is concluded abroad, they are presumably better acquainted than they are with the *lex loci contractus.* Again, in the now frequent cases in which juristic persons are formed in one country for the purpose of performing all their functions in others, it would be more natural to imply that the founders intended that the juristic person should be governed by the laws of the country in which the center of its administration and the scene of its operation were to be situated, and with which, as prudent men, they would probably have made themselves acquainted. In view of such doubts as these, there seems to be little justification for the proposed rule either in theory or in practice.

(*b*) A commercial association is domestic in the state in which its capital was subscribed.

---

[1] See Brunard, Congress Soc. par Act, 1889, Comp. Rend. p. 213; and Arminjon, pp. 385, 388, who, however, rejects this reasoning.

This theory has received considerable support from authors on the subject, but it has never been judicially accepted or practically applied. Its principal advocate has been M. Thaller;[1] but practical objections to the theory in the general form in which he proposed it have led to the suggestion by certain authors, who accepted the substance of his theory, of other formulæ, the same in principle, but modified in detail. Shares in a joint stock commercial association are frequently issued, and its capital subscribed, in several states. To meet this difficulty M. Thaller can only suggest that such an association must be considered to be domestic in every state in which an appreciable part of its capital is subscribed, and that its founders must register it in every such state, and that the proportion of the capital which is sufficient thus to domesticate the association is a question of fact for the courts. The practical difficulties of such a state of affairs are apparent. An association must have one responsible center for its administrative business, and one only. With more than one it would be as unfitted for practical existence as would a body with several heads. Further, to refer to the decision of the courts upon a question of fact as the final test of nationality must always introduce a danger of conflicting decisions, which would saddle some associations with several nationalities whilst they left others without any.

To obviate such difficulties as these, it has been suggested that preference should be given to the state in which the shares of the association are first issued, and its original capital subscribed; or that preference should be given to the state in which the greater part of the total capital has been subscribed. These formulæ are, no doubt, more practical than that of M. Thaller, but their application would not be entirely free from similar difficulties. And there are other practical objections to the theory in any form. It applies only to associations which possess a capital, and it leaves us to find another and a different theory to apply to other juristic persons, which differ from the former class in their economical characteristics only, and not in any legal characteristic. It does not even provide a test applicable to all commercial associations, for in some countries such associations can be formed without any capital at all.

So much as to the practical objections; it remains to discuss the theoretical arguments by which it is supported. These are based

---

[1] Annales de Dr. Comm., 1890, part 2, p. 266; *cf.* Surville et Arthuys, § 456.

in the first place, on the intentions of the subscribers to commercial association; and, in the second place, on the intentions of states in legislating for their establishment. As to the first, it is unnecessary to repeat what has already been said as to the effect which can be allowed to the intentions of the founders or members of a juristic person in determining its nationality. As to the second, this argument from the intention of the state is entitled to more weight. The laws of a state, it is said, relating to commercial associations with capital, are enacted by it to protect the savings of its subjects from the designs of fraudulent promoters. Having been made with this intention, they must be applied to all associations which seek for capital from the subjects of that state. Such associations must be governed by that law as their personal law, and be domestic in that state.[1]

Now, even if a state did intend that its whole law of commercial associations should apply to all commercial associations which obtained their capital within its jurisdiction, and actually expressed that intention, we should still have to ask, Does that intention transgress against the rights of other states? and so we should find ourselves referred to some more fundamental principle. But no such intention ever has been expressed by any state, and the supposed intention is therefore an implied intention if it exists at all. It is difficult, however, to see what grounds there can be for implying it. The whole legislation of a state relating to commercial associations is not enacted by it for the protection of its subjects' savings. One part is, no doubt, enacted with that intention, but a second part is enacted for the regulation of the constitution and capacities of the juristic person and the rights of the members *inter se*, and a third part is enacted to protect the interests of third parties, subjects of the state, with which the association may subsequently have dealings. It is the first part only that the state can reasonably be supposed to intend to apply to associations which apply for capital to its subjects; and the inference cannot be extended to the second or the third parts. A state is undoubtedly entitled to make what regulations it pleases for the subscription, within its jurisdiction, of capital to commercial associations. Such regulations relate to "public order," or "the rights of third parties, subjects of the state," since intending subscribers are still strangers to the association. They are therefore, on general principles, essentially matters

[1] Thaller, *supra*.

for the local law, and not for the personal law at all. A commercial association must, no doubt, if it desires to obtain capital within the jurisdiction of a state, observe the laws which that state has made to govern such subscriptions; and on the principle that *locus regit actum*, a subscription made in accordance with those laws must be recognized in every other state as properly made. But it would be unreasonable to assume that the state in question intended that the fact of the subscription should subject the association to all sorts of rules of law which were enacted in respect of matters which have nothing to do with the subscription, and should fix it with them forever as its personal law. If it did so intend, it would be passing beyond the true province of its legislative activity, and its intention might be disregarded by other states.

(*c*) A juristic person is domestic in the state in which the public formalities attendant upon its constitution were performed.

Many states have released certain juristic persons, especially commercial associations, from the necessity of obtaining an express authorization; but they continue nevertheless to exact from them the performance of certain formalities at the time of their formation, of which that of registration may be taken as typical. It is often said, and still more often assumed, that a juristic person is domestic in the state in which it was first registered; and the proposition appeals by its simplicity. If it be examined, it will be found to be open to the same objections as (*a*) and (*b*), above. It is supported by reference to the intention of the parties, — an argument which, as we have seen, is of questionable value. But its chief support has perhaps been derived from the idea that official registration implies some sort of creation, or express authorization or recognition, on the part of the state. If this idea is sound, the theory is but a form of the theory first dealt with, and it is open to the same objections. But it may be contended with force that it is unsound. Registration and other such public formalities are required by the state in order to secure publicity concerning the affairs of the juristic person, in the interests of third parties. The juristic person performs them, while the state remains a passive spectator, neither approving nor disapproving; indeed, one of the motives which led states to abandon the system of express authorization was the desire to avoid the appearance of giving official sanction to undertakings concerning which there could be no official knowledge.

In so far as the theory may be supported by reference to the

intention of the state, that may be said of it, *mutatis mutandis*, which has already been said of other theories supported by the same argument. The state, no doubt, intends that its laws, which regulate the public formalities necessary for the formation of a juristic person, should be observed by every juristic person which is formed within its jurisdiction. They are laws relating to public order, or the interests of third parties, subjects of the state, and must be observed by every juristic person to which they are intended to apply, as part of the local law. They are within the proper sphere of the legislative activities of the state, and when the juristic person in question has observed them, it must be acknowledged by every other state to have been properly constituted as regards the performance of public formalities attendant on its constitution. But no inference can be drawn that, because the state intended to apply this part of its law to a juristic person, it also intended to apply to it the whole of its law relating to juristic persons, and that that law is the personal law of the juristic person. Nor can an inference be drawn that the state intended that the part of its law regulating the public formalities in question should apply to any juristic persons other than those that were formed within its jurisdiction.

IV. *A juristic person is domestic in the state in which it is domiciled.*

It must be made clear that by the domicile of a juristic person is here meant its permanent home, the situation of which is a natural fact, depending on its constitution and circumstances; and that the word is not intended to imply any inference of law. It has indeed been contended that a juristic person is incapable of possessing a domicile in this sense. A fictitious person, it is said, can have no real home; and if one be attributed to it, it is by fiction of law only.[1] But it is common to find that those who advance this opinion admit, at the same time, not only that a domicile must be attributed to it, but that its location depends on the natural circumstances of the juristic person, — that it must be determined for some juristic persons, such as hospitals, municipalities, etc., by an obvious connection between the juristic person and the territory, and in others by the charter, or, in the absence of any provision in the

[1] Merrick *v.* Brainard, 34 N. Y. 208; Insurance Co. *v.* Francis, 11 Wall. (U. S.) 216. The contention is implied in the dictum of Taney, C. J., so often repeated in subsequent decisions, that "a corporation must dwell in the place of its creation and cannot migrate to another sovereignty." Bank of Augusta *v.* Earle, *supra*. *Cf.* also Wharton, Conflict of Laws, § 105 and § 48 (a).

charter, by the central point of the enterprise.[1] We have, then, a fiction which it is necessary to feign, and which is an expression of natural facts. Would it not be simpler and more scientific to say at once that the domicile of a juristic person is no fiction, no artificial attribution of law, but real in the same sense that the domicile of a natural person is real? The force of circumstances constantly compels us to consider a juristic person as resident at some particular place. It is natural and necessary that those who enter into legal relations with it should contemplate it as personally present at the center or centers from which it discharges its functions. An example of this tendency may be found in the manner in which the theory, once prevalent amongst lawyers in the United States, and recorded in many decisions, that a corporation can reside in the territories of that state only which "created" it, has given way, in connection with questions of jurisdiction, before the growing conviction that a corporation does, in a literal and unmetaphorical sense, reside wherever it has an agency or branch office, so that "a manufacturing company which maintains an established location here, and an agent, . . . has a business domicile here," wherever it may have been "created."[2] It is in fact now generally admitted that, in the words of Von Bar, "domicile is an attribute of juristic persons as well as of natural persons; in their case, too, we can conceive of a center of the activity which belongs to them as juristic persons."[3]

According to the theory stated above, it is the locality of its domicile that fixes the nationality of a juristic person.[4] By reason of its legal characteristics, the quality of domicile does indeed seem to afford a test of nationality which is both practically convenient and theoretically sound. The personal law of natural persons depends in different legal systems upon *jus sanguinis*, *jus soli*, or domicile. Juristic persons can have no *jus sanguinis* or *jus soli*, but they can have *domicile;* and to refer their nationality to the latter circumstance preserves as much uniformity as possible between the law of natural persons and that of juristic persons. Domicile

[1] *Cf.* Dicey, Conflict of Laws, rule 19, pp. 154 *et seq.*; and Foote, Private International Jurisprudence, 3 ed., 176; following 4 Phillimore, Internatl. Law, 2 ed., 142, and Savigny, Conflict of Laws (translated Guthrie), § 357.

[2] Southern Cotton Oil Co. *v.* Wimple, 44 Fed. 27.

[3] Von Bar, § 47. See also Calvo, Dictionnaire de Dr. Int., Vol. I. tit. Domicile Social; Fiore, § 918; Vavasseur, p. 348.

[4] *Cf.* Lyon-Coen et Renault, Vol. II. p. 823; Brocher, p. 101; Chervet, p. 128; also Cod. Comm. of Italy, art. 230; of Portugal, art. 109–111; of Roumania, art. 239; also Loi Belge, May 18, 1873, art. 128; and Nevada, Act 44 of 1889.

is not like authorization, or the place of performance of any of the acts by which the juristic person was constituted, an accidental circumstance having only a temporary effect on its history. It is a permanent attribute of its legal personality, with an immediate effect on its legal character and relations. It is, moreover, a matter of fact which is independent of the arbitrary will of its founders or members. If we are to consider their intentions as to the nationality of the juristic person, it seems to be at least as reasonable as any other assumption, to assume that they intended it to be domestic in the state in which it was to have its permanent home, and that its constitution and capacities, and their legal relations *inter se* as members, should be governed by the laws of that state. As to the intention of the state, it seems to be by far the most reasonable assumption that it is its intention that that part of its law which governs the constitution and capacities of juristic persons and the relations of their members *inter se*, and that part only, should of necessity be applied to those juristic persons, and those only, which have their permanent home within its jurisdiction, and which thus operate under its protection and enjoy the advantages which it provides. They alone have any permanent connection with it, and constantly renew their legal relations with its subjects and under its authority. And it is the rules of law, that constitute the part in question of the law of a state relating to juristic persons, that are the personal law of a juristic person to which they apply, and follow it from state to state.

The opinion is accordingly now widely accepted that the true test of the nationality of a juristic person is, not its place of origin, nor any other matter but its domicile, which is the permanent center of its affairs. It is perhaps in the United States alone that the theory has found no favor. Whilst it is recognized that a corporation, like a natural person, can have residences and so called "business domiciles," and that they will have the same effect upon its legal life, in such matters as jurisdiction and taxation, as they have upon that of a natural person, the further step has never been taken of recognizing that the principal residence, or permanent home, which is the domicile, may also have the same effect upon the legal life both of a natural and of a juristic person, and that, as it determines the personal law of the one, so it may determine that of the other also. Domicile is here disregarded for the sake of a strict adherence to the principle, deduced *a priori* from the theory that juristic personality is pure fiction, that a juristic person

is domestic in the country by the law of which its fictitious personality was "created." Thus the transfer of its principal office, or of most or even all of its business, from one state to another, has often been held to leave it still a foreign corporation in the latter state; [1] nor does it thereby become a citizen of the latter state for the purposes of federal jurisdiction.[2] Nothing can be more admirable than the loyalty with which such decisions have maintained the authority of Bank of Augusta *v.* Earle, and the ingenuity which has been displayed in establishing a *modus vivendi* between time-honored *dicta* and the fresh legal needs of modern corporations. One who approaches the theories current in the United States from the point of view of a foreign legal system must be diffident of his power rightly to appreciate them, and still more of his capacity to criticise them. But he may perhaps venture to guess that it must often have occurred to American lawyers that the time has come in the United States for a more liberal régime in this matter, and for one more in harmony with things as they are than that established in 1839.

There is an agreement on the part of recent authors on this subject, with some exceptions which have been noted, in favor of domicile as the true test of a juristic person's nationality. There is not the same agreement as to the true situation of the domicile. Various opinions have been expressed about this, which will now be briefly considered.

(*a*) *The domicile of a juristic person is at the place at which it discharges its functions.*

At first sight it is not unnatural to hold that the principal manifestation of the personality of a juristic person is at the scene of its operations, where its functions are discharged and its legal relations with third parties contracted. The theory has met with support both judicial [3] and from authors on the subject.[4]

---

[1] Merrick *v.* Brainard, *supra;* New Hampshire Land Co. *v.* Tilton, 19 Fed. 73; Hanna *v.* International Petroleum Co., 123 Oh. St. 622; Newbury Petroleum Co. *v.* Weare, 27 Oh. St. 343.

[2] Insurance Co. *v.* Francis, *supra;* Pacific Railway Co. *v.* Missouri Pacific Railway Co., 23 Fed. 565; Booth *v.* St. Louis Fire Engine Mfg. Co., 40 Fed. 1; Chicago and Northwestern R. R. Co. *v.* Chicago and Pacific R. R. Co. (1874), 6 Biss. (U. S.) 219; Railroad Co. *v.* Whitton, 13 Wall. (U. S.) 270.

[3] Trib. Leipzig (reported Clunet, 1874, p. 82); Cour Cass. (reported Sirrey, 1863, I. p. 199).

[4] Lyon-Caen, Journal des Soc., 1880, p. 36; Despagnet, § 64; Lyon-Caen et Renault, Vol. II. p. 823; Asser et Rivier, p. 197; Weiss, Vol. II. p. 147; also Rolin,

There are, however, strong practical objections to it. They may be briefly indicated by asking the questions, What would be the nationality of a mining company founded in New York to exploit mines in Persia or Patagonia, and if it is Persian or Patagonian, as this theory would teach, where is it to discover the laws by which it must regulate its existence? What, again, is the nationality of a railway company which works a line passing through several states, or of the Compagnie International des Wagon Lits? What is the nationality of a corporation that has no plant, such as a banking or insurance corporation, but does business by correspondence in many states, the amount of which in each state may fluctuate from day to day?[1] The advocates of the theory can only suggest that in such doubtful cases it is for the courts to decide which is the principal scene of operations.[2] To throw such a burden upon the courts without providing them with any adequate principles upon which to base their decision is, as it has been said, to incur the danger of conflicting decisions doubling one juristic person's nationality and depriving another of any.

(*b*) *The domicile of a juristic person is at that place at which it is fixed by its charter or other constitutive documents as its seat.*

The opinion has been maintained, especially by German jurists, that the domicile of a juristic person may be fixed once and for all by its constitutive documents, and that the place therein named remains its domicile, wherever its scene of operations or its center of administrative business may afterwards come to be.[3]

Domicile is thus reduced to a pure fiction, and nationality and personal law are determined by an arbitrary choice, and not by the legal characteristics of the juristic person. For these reasons the opinion can scarcely be accepted as satisfactory.[4] Why should a juristic person be permitted to select its nationality in this manner,

---

Vol. III. No. 1277. *Cf.* also Resolution of Congress of Joint Stock Companies at Paris, 1900: "The nationality of a Joint Stock Company should be determined by the country in which it has its principal establishment *or* by the country of its true seat (*siège réel*), fixed by its statutes."

[1] *Cf.* Surville et Arthuys, § 456; Pic, *loc. cit.*; Mamelok, p. 222: Pineau, p. 133.

[2] Lyon-Caen et Renault, Vol. II. p. 824.

[3] Savigny, Conflict of Laws (translated Guthrie), § 354; Staub, Kommentar zu allgemeine deutsches H. G. B. (1896), pp. 373, 414; Ring, Das Reichsgesetz bet. die Kommanditges. auf Aktien, Vol. II. p. 185; also Rattigan, *op. cit.*, p. 45, "as a rule, the question [of domicile] is found to be settled by the charter of their constitution or by special legislative enactment."

[4] *Cf.* Vavasseur, p. 345; Mamelok, p. 225; Lehman, Archiv für bürg. Recht., Vol. IX. 356; Holdhein, Motive zum deutsches B. G. B., Vol. I. 77.

or indeed in any other manner, while a natural person is not permitted to do so? In the one case, as in the other, it should be recognized that nationality is a natural characteristic, and can be affected neither by agreement nor by an expression of wishes or intentions. A decision of the Swiss Bundesgericht has well defined the true effect upon its domicile of special provisions in the constitutive documents of a juristic person. "The statutes of a joint stock company," it was said, "are of course decisive in the first place as to the position of its seat. Special circumstances must be shewn in order to establish that the provision of the statutes as to the seat of the joint stock company are inconsistent with actual fact, a pure fiction resting its legal relation on an evasion of the law as to their true center."[1] The special provision is *prima facie* proof; but if it appears that in fact the domicile of the juristic person is at some other place than that at which it is fixed by the special provision, the fact overrules the presumption.

(*c*) *The domicile of a juristic person is at the place at which the center of its administrative business is situated.*

The place at which a juristic person discharges its functions is the center of its economic activities only. The true center of its legal activities is the place at which its administrative business is conducted. It is there that its personality manifests itself, for it is there that its organs operate, directing its operations and controlling its policy. The real elements in its personality have their real location there, for it is there that its will, which exists independently of the wills of its members, is expressed by resolution of its governing bodies or of the general assembly of its members. The center of its administrative business is thus no accidental or irrelevant feature in its legal character and circumstances. It is the place at which all its legal relations, internal or external, are concentrated, and thus it forms an appropriate test of the quality of nationality, which, as it has been said, should be intrinsic in its character, and inherent in its relation with others.

The fact that a juristic person thus lives its legal life at a place makes an obvious connection between it and the laws of the country in which that place is situated; and it is natural to suppose that the

[1] *In re* The Liquidation of the Société Laitiere de l'Est, Judgment of July 22, 1889. A. S., XV., N. 79. *Cf.* also Von Bar, § 47; and, *contra*, the opinion expressed by the Institute of International Law at Hamburg, 1891: "It is necessary to give preference to the domicile, — to the seat indicated by the statutes."

state in enacting those laws intended that, in so far as they relate to the internal regulation of a juristic person, to its constitution, and to the legal relations of its members with each other and with the juristic person itself, they should apply to those juristic persons, and those only, whose internal affairs are conducted, whose personality expresses itself, and whose constitution functions, within the territories to which the laws apply; and whose legal relations towards its members, and those of its members towards each other, are there regulated and controlled.

That the center of administrative business is the true domicile or permanent home of a juristic person, and is the test, in consequence, of its personal law, is, for these reasons, now the most favored opinion.[1] The theory has the advantage of being clear, comprehensive, and readily applicable in practice. In the great majority of cases the determination of the situation of a juristic person's center of administrative business must be a very simple question of fact; other cases in which the organs of the juristic person are distributed or concealed may present more difficulty, but the difficulty is in the determination of the facts, not in the application of the theory.

Certain modifications in the principle have been proposed in order to diminish such freedom of choice as it allows to juristic persons as to their nationality, and to prevent fraudulent evasion by its subjects of a state's law of juristic persons. The suggestions made for this purpose have taken the form of proposed limitations as to the situation in which the center of administrative business may be placed. Nationality, it is said, is determined by the center of administrative business, but that center must be in such and such a place. Thus it is very commonly argued that it is necessary to limit freedom of choice according to the formula that a juristic per-

---

[1] Surville et Arthuys, § 456; Arminjon, pp. 396, 407; Pic, *loc. cit.*; Vavasseur, p. 349; Lefévre Clunet, 1882, p. 403; Deloison, Traité des Soc. Comm., I., No. 164; Duvivier, Faillite des Soc., p. 259; Sacopoulo, pp. 173–175; Chervet, p. 130; also decisions of French Tribunals, reported Clunet, 1896, p. 138; 1897, p. 364; 1898, p. 341; and Dallon 70, I. 416.

Von Bar, §§ 47, 104; Mamelok, p. 101. *Cf.* also German Code of Civil Procedure § 19: "Unless some other seat is plainly discoverable, the place where the management of the business is carried on is held to be the seat."

Cf. also Indian Code Civil Procedure, 1882, Art. XIV. § 17, explanation (2). The Institute of International Law in 1891 adopted the following resolution: "(5) The country of origin of a joint stock company must be considered to be the country in which the legal center of its administrative business is situated in good faith."

son is domestic in the country in which the center of its administrative business is situated " in good faith " or " without fraud." [1]

The word " fraud " in this connection is capable of two meanings. Construed in one way, it expresses a valid limitation, but one so obvious that it would seem unnecessary to make express mention of it. Construed in the other, it amounts to the statement of a theory, like in kind to some which have already been considered, and open to the same objections. It may mean a mere fraudulent simulation of a center of business in a place other than the true center; and then its effect is only to call attention to a matter which scarcely needs so much emphasis, that the situation of the center of a juristic person's administrative business is a question of fact; that that place which is in fact its true center is its domicile, and that if it pretends to have its center at some other place than that at which it is in fact, the pretended center is to be disregarded, as a test of nationality, in favor of its true center. But it is clear that this is not the meaning which the word is commonly intended to bear. By fraud in this connection is meant, not the simulation of a false centre of administrative business, but a fraud practised upon the law, in fixing the situation of the true center, — a fraud which consists in fixing that true center in some country in which it ought not to be. Thus it has been frequently held by French and German courts that a juristic person cannot be recognized to be foreign which fixes its center of administrative business abroad for the sole purpose of evading the provisions of the law of the country in which that center ought to have been fixed.[2]

In the United States the same doctrine has been applied to the accepted theory that a corporation is domestic in the country by the laws of which it was " created." It has, for instance, been held that for the citizens of one state to organize a corporation under the laws of another, for the purpose of transacting all its business in the former, is a fraud upon the laws of the former, and that the corporation in consequence possesses no status as a person within its territories.[3]

It is clear that where this meaning is given to the word, some

---

[1] *Cf.* Resolution of Institute of International Law, 1891, quoted *supra;* also Cour Cass., reported Clunet, 1897, p. 364; Trib. Comm. Seine, reported Clunet, 1904, p. 189; and Trib. Brussels, reported Clunet, 1885, p. 292; also Pillet, p. 201.

[2] See *e. g.* cases in preceding note.

[3] Hull *v.* Beach, 12 N. J. Eq. 31; Booth *v.* Worderly, 36 N. J. L. 250. *Contra,* Demarest *v.* Flack, 128 N. Y 205.

other test than that of domicile is being introduced as the true and ultimate test of nationality. It is assumed that, while the domicile fixed by a juristic person in a certain country may be the actual center of its administrative business, yet it is to be disregarded in determining the juristic person's nationality if it is not in the country in which it ought to be. The introduction of the idea that there is an obligation to fix the center of administrative business in some country, and that not to fix it there is a fraud, shows that not the country in which the domicile is, but that other country in which it ought to be, is in reality being assumed as the country in which the juristic person is domestic. The introduction of some such further test of nationality is necessary to give any meaning to the word "fraud." One cannot commit a fraud upon a law which is not binding upon him. But if the center of administrative business is the simple and sufficient test of nationality, then the law of juristic persons of any state binds those juristic persons only which have their center of administrative business within its territories. It does not bind those which fix their center of administrative business elsewhere, and if it does not bind them, it is no fraud for them to disregard it.[1] Under the circumstances it is an inherent defect of the use of the word "fraud," that it does not tell us in what country the center of administrative business ought to be placed. To say that it must be placed somewhere "in good faith," refers us to some standard as to what is, and what is not, fraudulent, but gives us no clue as to what the standard is. Is it fraudulent to place the center of administrative business elsewhere than in the country in which the juristic person was authorized? or in which the majority of its members reside, or the greater part of its capital is owned? or in which one or all of the acts necessary for its constitution were performed? or in which the scene of its operations is situated? If we accept one or other of these circumstances as the standard of fraud, it is clear that we are in substance abandoning the center of administrative business as a test of nationality in favor of another test, and thus incurring all those difficulties which have been seen to attend the adoption of any of those other tests. Perhaps the use of the word "fraud" is most commonly intended to imply that all such circumstances are to be weighed in considering whether a juristic person has fixed its centre of administrative business in good faith or not, so that the issue of fraud or no fraud depends upon a

[1] *Cf.* Mamelok, p. 229; Arminjon, p. 408; Diena, p. 260; Demarest *v.* Flack, *supra.*

comprehensive view of all the circumstances of the juristic person. If this is so, then center of administrative business is being rejected as a test of nationality in favor of an eclectic system, which makes nationality depend on the resultant of all those circumstances, the claims of which to be the sole test have already been considered one by one. This principle, that the nationality of a juristic person is what is called a simple question of fact, dependent upon its circumstances, has been sometimes advocated independently,[1] apart from its implication in the limitation against fraud usually added to theories in favor of the center of administrative business as the sole test of nationality. It may be said of it, that in attempting to combine all other proposed principles, it succeeds in combining their defects only. Nationality is not in any accurate sense a question of fact, it is a question for a legal inference to be made from facts, and what facts may give rise to the inference must be ascertained by some definite legal principle. The eclectic system provides no such principle. It negatives, indeed, the possibility of arriving at any definite conclusion to the discussion, and erects that negation into a principle. Referred to this standard, courts of law would be left without any definite guidance for their decisions. Different courts might consider that different circumstances were material to their decisions, or that the same circumstances were of different importance. Certainty and uniformity of decision would be imperilled, and there would be no guarantee against conflicting decisions.

For these reasons it seems that to introduce a qualification as to fraud in this sense into the theory, that a juristic person is domiciled at its center of administrative business, is in fact to qualify away the whole effect of the theory.[2] It should be recognized that a juristic person by fixing its seat in a country has, in that circumstance which is of the most relevance and importance, become domestic there; that it has not avoided the imposition of the law of any other country by a mere formality or trick, but that it was, in substance and in fact, never bound by that law, and that other countries are not entitled to disregard the substantial connection which it has formed with the country in which its center of administrative business is situated.

---

[1] *Cf.* Macquero, Traité alphabétique des droits de l'enregistrement; Rolin, Droit International Privé III., § 1278; Cour Cass. Dallon, 1870, I. 416; Surville et Arthuys, § 456; Vavasseur, p. 349, who inclines, however, to accept the center of administrative business as the sole test.

[2] *Cf.* Arminjon, pp. 408 *et seq.*

The principle that a juristic person is domestic in the state in which it is domiciled is commonly stated by continental jurists to be true only of those juristic persons which have received no express authorization or recognition from any state, a class which includes the great majority of commercial associations. It is, as has been seen, considered that juristic persons which have obtained express authorization — a class which is usually assumed to be, and which is in practice, identical with that of juristic persons which discharge public functions — are by that circumstance conclusively proved to be domestic in the territories of the state by which they were authorized. The division of juristic persons into two classes is natural for those who are primarily concerned with legal systems in which there is a sharp distinction in status between the private and the public juristic person. It is less natural for common lawyers, who are not accustomed to make the distinction. Nor does the distinction appear to be necessary in this connection. Something has already been said of the defects in the principle that authorization fixes nationality. It makes nationality depend on accidental and political circumstances, and not on the intrinsic legal character and circumstances of the juristic person. The fact that a juristic person discharges functions which are part of the proper activities of the state, and can therefore be discharged by it only by means of a delegation of authority from the state, shows no doubt that it is, from the political point of view, acting as part of the state's organization. But why should this be conclusive, from the juridical point of view, of its nationality? It is not so in the case of natural persons. A tax collector is not necessarily an Englishman because he collects taxes on behalf of the Inland Revenue; his occupation has no effect upon his nationality. So also the social functions of a juristic person are unconnected with and should have no effect upon its legal capacities and the question of its personal law. No doubt juristic persons exercising public functions will, with but few exceptions, have their center of administrative business within the territories of the state in connection with which they discharge those functions. The majority of them, such as public administrative bodies, municipalities, colleges, hospitals, and churches, are by nature fixed to one particular spot, both as the scene of their operations and as the center of their administrative business; nor is it easy to imagine circumstances in which a state is likely to grant express authorization to a juristic person whose center of

administrative business is fixed outside its territories. There is therefore little practical difference between the acceptance of the center of administrative business as the test of nationality in every case, and the acceptance of it as a test only when there has been an express authorization. But theoretically the former theory seems preferable. There is no such specific difference between juristic persons of different sorts as to prevent the center of administrative business from being the true test of the nationality of every sort, if it is so for any sort; and to accept it for some while rejecting it for others must be purely arbitrary. The principle, that a juristic person is domestic in the country in which its center of administrative business is situated, is based upon the idea that it is at that place that it manifests its personality; and that is true whatever may be the functions which it performs, and whether it is a commercial association, or a corporation with public functions, or a *fondation* or *Stiftung* without members, acting by a committee of management.

If a juristic person is domestic in the country in which its center of administrative business is situated, and has the law of that country for its personal law, then we know that its constitution, capacities, and manner of performing its functions, its relation to its members, the relations of the members to each other, and all other matters which on general principles are matters for the personal law, must be regulated by the law of juristic persons of that country. Combining this principle with the principle that, as regards the public formalities attendant upon its constitution and the issue of its capital, *locus regit actum*, we may say that we have a complete account of its position in private international law.

It is complete, at least, as far as regards juristic persons other than commercial associations. In their case there are certain practical difficulties which obscure the application of the principle. In passing laws for their regulation, states have had in mind only such associations as would both be formed and registered within their territories, and would also desire to establish their center of administrative business, and be permanently domiciled there. They have not contemplated the possibility that a juristic person might desire to perform the ceremonies incidental to constitution within their territories and, at the same or some later time, to establish its domicile in the territories of some other state. No pains have been taken to separate from each other the three parts of the law of juristic persons between which a distinction has been drawn above;

and it must, in consequence, be difficult in many states for a juristic person to subject itself to one of those parts, without *ipso facto* subjecting itself to the other two. The failure on the part of legislatures to appreciate that legal principles demand that a distinction should be made between the three parts necessarily places great practical difficulties in the way of a commercial association, which desires to place its center of administrative business in a state different from that in which it performed the formalities incidental to its constitution. If, in order to procure registration in state A, it had to adopt the constitution provided for by the laws of that state, it may subsequently be unable to establish itself as domestic in state B, since state B may require a different constitution in its domestic juristic persons. A peg cast in a square mould cannot be fitted to a round hole.

In conclusion, let us return for a moment to the American doctrine. Those who adhere strictly to the theory that the personality of a juristic person is pure fiction must maintain, as a consequence of that theory, that it is impossible for a juristic person to possess any nationality but that of the state by the law of which it was created. According to them a juristic person is a creature of law, and exists only in contemplation of the law which created it; and clearly the same juristic person cannot be contemplated by two laws at once. If it seeks to pass from the contemplation of one law to that of another, it must obtain some express authorization or recognition in the second state, which is in reality nothing less than a recreation. Domicile can have no effect upon its domesticity, for it can never be domestic in any state but that in which it first came into existence, either by express authorization or by mere registration. Some of the difficulties and deficiencies, theoretical and practical, inherent in this line of argument, have, it is hoped, been made clear in this article. The pith of the matter is that the actual character and practical circumstances of modern juristic persons tend to increase the importance of natural domicile amongst their legal characteristics, and to diminish that of the process by which they came into existence. Men tend more and more to see in juristic persons, not legal fictions, but real things; and if there is any reality in the nature of a juristic person, there can be no difficulty in admitting that the situation of its domicile can and should have the same effect upon its life in the law that it has upon that of a natural person.

E. Hilton Young.

LONDON.

Abbreviated References.

Weiss	Traité Théorique et Pratique de D. I. P. (1892).
Calvo	Le Droit International Théorique et Pratique (4th ed., 1888).
Fiore	Diritto Internazionale Privato, Vol. I. (3d ed.).
Pineau	Des Sociétés Commerciales en D. I. P. (1894).
Sacopoulo	Des Personnes Morales en D. I. P. (1898).
Haladjian	Des Personnes Morales Étrangers (1901).
Von Bar	The Theory and Practice of P. I. L. (translated Gillespie, 2d ed., 1892).
Diena	Trattato di Diritto Commerciale Internazionale, Vol. I. (1900).
Arminjon	Nationalité des Personnes Morales. Révue de Dr. Internatl. 1902.
Brocher	Droit International Privé (1876).
Clunet	Journal du D. I. P. et de la jurisprudence comparée, pub. par E. Clunet.
Lyon-Caen et Renault	Traité de Droit Commercial (2d ed., 1892).
Surville et Arthuys	Cours Élémentaire de D. I. P. (4th ed., 1904).
Mamelok	Die juristische Person im Internationalen Privatrecht (1900).
Vavasseur	Des Sociétés constituées à l'Étrangère, etc. Clunet, 1874.
Chervet	Des Sociétés Commerciales en D. I. P. (1886).
Despagnet	Précis de D. I. P. (1886).
Asser et Rivier	Éléments de D. I. P. (1884).
Pillet	Principes de D. I. P. (1903).